

**OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT**

**Annual Evaluation Report**

for the

**Regulatory and Abandoned Mine Land Reclamation Programs**

**Administered by the State**

of

**Utah**

for

**Evaluation Year 1993**

**(July 1, 1992 through June 30, 1993)**

**February 1994**

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## **I. Introduction**

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior to oversee the regulation of coal exploration and surface coal mining and reclamation operations and the reclamation of lands adversely affected by past mining practices. SMCRA provides that, if certain conditions are met, a State may assume primary authority for the regulation of surface coal mining and reclamation operations and the reclamation of abandoned mine lands within its borders. Once the State has obtained such approval, OSM has the responsibility to make the investigations, evaluations, and inspections necessary to determine whether the State programs are being administered and enforced in accordance with the approved program provisions.

Since it is neither possible nor necessary to fully evaluate each program element and sub-element every year, OSM's Albuquerque Field Office has developed a schedule (Appendix B) specifying when each element and sub-element will be reviewed during a three-year evaluation cycle. This schedule will be revised as necessary to respond to changing conditions within Utah and concerns identified by the public or OSM oversight activities. Comments regarding the oversight process, recommendations for additional review topics, and suggestions for improvement of future reports are encouraged and should be submitted to the Director of the Albuquerque Field Office. Because of the nature of the three-year review cycle, some findings concern State performance prior to July 1, 1992. In these cases, the greatest emphasis is accorded to the most recent State actions reviewed.

Set forth below are the summary findings of the Director of OSM's Albuquerque Field Office regarding the performance of Utah for the period July 1, 1992, through June 30, 1993. Detailed background information and comprehensive element-specific reports are available at the Albuquerque Field Office.

## **II. List of Acronyms**

AER	Annual Evaluation Report
AFO	Albuquerque Field Office
AML	Abandoned Mine Land(s)
AMLIS	Abandoned Mine Lands Inventory System
AMLR	Abandoned Mine Land Reclamation
AMR	Abandoned Mine Reclamation
AMRA	Abandoned Mine Reclamation Act
AVS	Applicant Violator System
CO	Cessation Order
DOGM	Division of Oil, Gas and Mining
EY	Evaluation Year

LSCI	Last State Complete Inspection
NEPA	National Environmental Policy Act
NOV	Notice of Violation
NPS	National Park Service
OSM	Office of Surface Mining Reclamation and Enforcement
PAD	Problem Area Descriptions
PAP	Permit Application Package
POV	Pattern of Violations
RSI	Random Sample Inspection
SMCRA	Surface Mining Control and Reclamation Act of 1977
TDN	Ten-Day Notice

### III. Executive Summary

DOGM's accomplishments for EY 1993 included the resolution of virtually all 30 CFR Part 732 items relating to State Program Amendments except for the outstanding amendment issues under Administrative and Judicial Review; conducting the blaster training, examination, and certification program in accordance with the approved program; ensuring that permits were not improvidently issued; and maintaining good security and tracking systems for bonding instruments.

Many problems were identified by OSM with DOGM's implementation of the approved program to be consistent with the provisions in Section 102 of SMCRA. Those issues newly identified as problems during this evaluation year included the failure to follow internal policy with respect to civil penalty assessment in the assignment of points (i.e., good faith points) and the failure to adequately document the rationale for points assigned and the late payment of civil penalties to DOGM.

Those issues identified as problems in previous evaluation years, and continue to be problems, are: (1) citation of violations; (2) late assessment of proposed civil penalties; (3) failure to reclaim bond forfeiture sites; and (4) complete resolution of the statutory and rule changes to the State program concerning informal hearing and assessment conference processes.

OSM awarded DOGM almost \$17.4 million to administer its AMR Program and reclaim abandoned mine lands since the Plan was approved effective June 3, 1983. To date, DOGM has been funded to reclaim 34 coal projects and nine noncoal projects. Tables 19 and 20 in Appendix A present a summary of funding awarded to DOGM.

DOGM worked on a total of ten reclamation projects during EY 1993 including one funded by the NPS. Accomplishments included completion of five coal projects and three noncoal projects in addition to the noncoal project funded by NPS that included reclaiming 31 acres. Accomplishments also included project maintenance,

distribution of workbooks on AML hazards to fourth grade school children, assisting the NPS with project planning and reclamation, and continued project planning and engineering. Tables 21 and 22 summarize the Program's accomplishments during this evaluation period and since the date of Plan approval in greater detail.

DOGM's volunteer and other State and local entities and landowners assisted the AMR Program with hazard abatement and increasing public AML awareness. Since the volunteer effort started about four years ago, hazards associated with 65 portals and 36 vertical shafts have been abated in addition to those reclaimed with funding provided by the Abandoned Mine Reclamation Fund. Of those, 4 portals and 9 vertical shafts were closed during the period summarized by this report. Tables 21 and 22 include DOGM's volunteer accomplishments. These efforts, combined with the cooperation of the people of Utah, continue to be instrumental in keeping the number of reported abandoned mine related accidents relatively low.

#### **IV. Overview of the Utah Coal Mining Industry**

Coal is found beneath approximately 18 percent of the State, but only four percent is considered minable at this time. The demonstrated coal reserve base is about 6.4 billion tons, 1.3 percent of the National reserve base. Most of Utah's coal resources are held by the Federal Government and Indian Tribes.

The coal fields are divided into the Northern, Central, Eastern, and Southwestern Utah Coal Regions. The most productive region is the Central Utah Coal Region which includes the Book Cliffs, Wasatch Plateau, and Emery Coal Fields. There are vast, substantially undeveloped coal fields in the Southwestern Utah Coal Region. Development of these fields will probably be difficult because of environmental concerns resulting from the proximity to National Parks and other recreation areas.

Most of the coal is bituminous and is of Cretaceous Age. The BTU value is high compared to other western States. Sulfur content ranges from medium to low in the more important coal fields.

Most current operations mine seams that exceed eight feet in thickness. There is one surface mine, permitted in 1993. The rest of the coal production is from underground mining. There are 32 inspectable units, 25 of which are currently operating. There are 138,700 acres of land currently under permit for mining with approximately 2,500 acres disturbed. Coal production has been steadily increasing since the early 1970's, producing 21.3 million tons in 1992. Utah's coal industry employs approximately 2,500 miners.

The climate of the Central Utah Coal Region is characterized by hot, dry summers and cold, relatively moist winters. Normal precipitation varies from six inches in the lower valleys to more than 40 inches on some high plateaus. The growing season

ranges from five months in some valleys to only 2 1/2 months in mountainous regions. These extreme climatic conditions make reclamation difficult.

Hazards in Utah associated with mines abandoned prior to enactment of SMCRA are varied, numerous, and widespread. Coal mine hazards most commonly include open vertical shafts, open portals often accompanied by methane emission, deteriorated structures, burning coal piles, unstable mine waste piles, underground coal mine fires, subsidence, and erosion of waste material into streams. Most abandoned coal mines are found in the Central Utah Coal Region where much of the State's coal mining took place, though they can be found in the southwestern, southcentral, and northeastern areas of Utah as well. DOGM has 99 coal Problem Area Descriptions in its inventory, many of which already have been reclaimed. Utah's noncoal abandoned mine hazards number in the thousands and are found throughout the State. Noncoal abandoned mine hazards in Utah most commonly include open vertical and inclined shafts, open portals, deteriorated structures, unstable waste piles, and subsidence.

No injuries or deaths associated with abandoned mines were reported in Utah during the 1993 evaluation period. Twenty-three reported incidents involving abandoned mines occurred in Utah since May 1982. Thirteen of those incidents involved injuries to people, three of which resulted in fatalities. Twenty of them involved abandoned noncoal mines.

## **V. Success in Achieving the Purposes of SMCRA**

There are approximately 138,700 permitted acres in Utah. Of the permitted acreage, 2,533 acres have been disturbed. Limited reclamation has occurred on 173 acres since program approval. One site was approved for final bond release. Eight sites are awaiting various stages of bond release. Three other sites are in bond forfeiture.

One reason for the limited reclamation is the large percentage of underground mines which only minimally create surface disturbance. Another reason is the current stage of mining activities in Utah (ongoing mining or early reclamation), which have not achieved final reclamation. This makes it difficult to quantify reclamation success through yearly comparisons of acres disturbed, regraded and revegetated. Due to the early stages of bond releases in Utah, most of this review is based upon potential trends and not on final reclamation results.

As mentioned in the EY 1992 Annual Evaluation Report, regulation of roads, highwall elimination, and the timeliness of reclamation at bond forfeiture sites remain as concerns with Utah's mine reclamation progress. Final Federal Register notices are in process on the topics of roads and highwall elimination in Utah's rules. The issue of highwall elimination has delayed some bond releases in Utah. Bond forfeiture concerns are still an ongoing issue in Utah at three abandoned minesites, as

are noxious weeds, erosion, and water monitoring or water quality concerns at these minesites.

Reclamation completed by DOGM's AMR Program and as a result of volunteer assistance during this period eliminated safety and environmental hazards posed by 133 mine openings and 14 acres affected by underground mine fires. DOGM's reclamation restored about 31 acres of mined land to a condition that will be more compatible with surrounding areas and will be of greater use to the people and wildlife of Utah than if left unreclaimed. In that context, reclamation of abandoned mines performed by DOGM achieved the purposes of SMCRA.

## **VI. Status of Issues from Previous Annual Evaluation Report**

The significant issues relating to DOGM's program that continue to need improvement include: (1) citation of violations; (2) late assessment of proposed civil penalties; (3) failure to reclaim bond forfeiture sites; and (4) complete resolution of the statutory and rule changes to the State program concerning informal hearings and assessment conference processes.

DOGM's record with respect to the citation of violations remained poor this year as only 16 percent of the violations believed to have existed during the LSCI were cited, as compared with a 25% citation rate in EY 1992.

Proposed civil penalties continued to be assessed late: 53% late in EY 1993, as compared with 40% late in EY 1992.

There are three minesites where the bond has been forfeited. In all three cases, there are not enough funds to reclaim the site to Title V standards. In two cases where the collateral was forfeited, one property needs to be sold and converted to cash. The second property was sold but not enough funds were collected. In the remaining case, DOGM is exploring legal avenues to collect additional monies. In the remaining case, DOGM has begun to revise the reclamation plan. DOGM contracted for an aerial overflight to map the current site condition at the third mine site.

DOGM partially resolved the statutory and programmatic changes concerning informal hearing and assessment conference processes that have existed since EY 1991. This issue was not completely resolved because DOGM wanted to amend the State Administrative Procedures Act. At this time, the informal amendment is being reviewed by OSM. This issue should be resolved during EY 1994.

The problem concerning DOGM's termination of enforcement actions based on plan submittal and approval, rather than plan implementation was reviewed in the element-

specific report on civil penalty assessments. It is now considered to be a minor problem.

No significant issues were noted in OSM's evaluation of DOGM's AMR Program in the previous report.

## **VII. Actions Affecting Program Implementation**

OSM received two letters from the Southern Utah Wilderness Alliance during EY 1993 concerning a request for a review of the State program and a request to review a proposed mine permit. In the first instance, OSM determined that the OSM annual evaluation of each State provided adequate information on the State's performance. In response to the second request, OSM determined that Utah was properly allowing public participation when provided for in the State program.

No actions occurred during the 1993 evaluation period that affected implementation of DOGM's AMR Program.

## **VIII. Summary Findings**

### **A. Regulatory Program**

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### **Regulatory Program Element 1: Permitting Actions**

**Sub-elements Reviewed:** A 1.1. Use and maintenance of the Applicant Violator System; and A.8 Remediation of Improvidently Issued Permits

**Type of Review:** 2, 2

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**Summary Findings:** OSM reviewed all State permitting actions requiring AVS clearance and monitored State inspection activities during OSM RSI inspections. Additionally, AFO verified information in OSM quarterly AVS reports. OSM found that during EY 1993, DOGM used the AVS system and verified ownership and control information during complete inspections in a manner consistent with its regulations and the MOU with OSM. However, DOGM did not always maintain accurate information within the AVS system. OSM will continue to monitor information contained within the AVS database that is the responsibility of DOGM.

OSM reviewed all permitting actions requiring AVS clearance and monitored DOGM actions in cases where AVS recommendation was a conditional issue. DOGM made significant efforts to ensure that permits were not issued improvidently in EY 1993.

In EY 1991, governmental agencies and interested parties alleged in their comments to DOGM during the permitting review process, that three mines were causing negative impacts to the hydrologic regimes. This resulted in a review of DOGM's processing of hydrologic information by OSM hydrologists in EY 1992. OSM determined that DOGM technical staff was doing a good job in identifying deficiencies in the hydrologic information in permit applications but that DOGM was not reviewing information submitted in response to the deficiencies in a timely manner. In EY 1993, OSM found that DOGM continued to do a good job in identifying deficiencies in submittals, but has not reviewed or processed the information in a timely manner. As a result of this untimeliness, the issues are still outstanding. OSM will continue to monitor progress in these issues.

In EY 1991, OSM determined that DOGM approved permit renewals based on applications that were incomplete or inaccurate. During EY 1992, DOGM continued to repermit mines with significant deficiencies in the technical information presented in the PAP by issuing the permit in concert with a Division Order that required the deficiencies be addressed at a later time. This occurred on three of four renewals in EY 1992 on active mines. Only one mine was scheduled for renewal in EY 1993 and was renewed without stipulations. Deficiencies for some mines that were listed in the stipulations when the permits were issued in 1991 have not yet been resolved. In one case, DOGM continued resolution of the renewal issues into the midterm review.

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### ***Regulatory Program Element 2: Bonding***

***Sub-elements Reviewed:*** B. 1. Tracking and Security Systems; B.3. Verification of bond validity/value/lack of restriction; B.5 Adjustments and replacements.

***Type of Review:*** 2, 2, 2

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**Summary Findings:** OSM evaluated DOGM's administration of its coal mine performance bonds by accessing and reviewing all DOGM bonding files, and determined that the State maintains a good security system for bonding instruments. DOGM maintains a computerized system, the Coal Bond Status Report, to track bonding actions and instruments. The system is current and provides information about permitting actions that result in changes to bonds.

OSM reviewed six samples of executed bonding documents. Generally the documents were in compliance with State regulations and found to be valid. OSM recommended some editorial revisions and revisions in the language of some of the State's bond forms.

Bonding documents for one permit name two different companies as the permittee. Another permit reviewed is covered by a deed of trust for real property. OSM and the State are co-beneficiaries on the deed of trust; however, the document that retroactively designated OSM as a co-beneficiary was never recorded. Therefore, property transactions can take place without OSM's lien being a matter of record. OSM is requiring that the State take action to record the document that designates OSM as a co-beneficiary.

OSM found deficiencies with the execution of some bonding instruments during adjustment or replacement. A rider to a surety bond covering a permit that had been transferred to a new company did not include evidence of authority for the individual who signed the document and did not revise the corresponding Reclamation Agreement with a stipulation to change the name of the permittee. Additionally, OSM found that some surety bond riders executed to revise bonds covering permits with Federal lands do not name OSM as a co-obligee. To agree with the bond being amended, a rider must accurately describe the specific details of the bonding instrument being amended, including the name(s) of the obligee. OSM must be designated as a co-obligee with the State on all bonds and riders covering Federal lands.

As part of this review, OSM examined the surety bonds covering all permits with Federal lands and determined that, as required, all surety companies are listed in the U.S. Treasury Department's Circular 570 as companies authorized to issue bonds covering Federal obligees.

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***Regulatory Program Element 3: Inspections***

***Sub-elements Reviewed:*** None

***Type of Review:*** 0

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**Summary Findings:** This element was not scheduled for review during EY 1993. The next scheduled review is during EY 1995.

**Regulatory Program Element 4: Enforcement**

**Sub-elements Reviewed:** D.1. Identification and citation of violations.

**Type of Review:** 3(d)

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**Summary Findings:** In every evaluation report since 1987, DOGM's performance in citing violations has been identified as a problem. During EY 1993, OSM observed 31 violations which were believed to have existed during the LSCI. Of these 31 violations, DOGM cited 5 (16 percent) during the LSCI and did not cite 26 (84 percent). During EY 1992, DOGM's citation rate during LSCI's was 25 percent (4 of 16 violations). Both of the EY's findings were based on a 50 percent inspection sample. The EY 1993 data indicates that considerable improvement is still needed in identifying and citing violations when unaccompanied by OSM. This is especially noted in light of the 94 percent increase in LSCI violations from EY 1992 to EY 1993 (from 16 to 31 violations). It is noted that 15 of 31 (48 percent) of the LSCI violations were found at one minesite. This subelement will continue to be monitored in EY 1994.

During the RSI, DOGM cited 12 of the 26 not previously cited LSCI violations. OSM issued TDN's on 12 of the 26 not previously cited LSCI violations, which were either upheld or not appealed. It should also be noted that 13 of the 26 not previously cited LSCI violations were found at one minesite. One of the 26 violations was resolved by DOGM by working with the operator, and the remaining "violation" is allowed under the permit and the currently approved program.

In addition to the LSCI violations, OSM observed 18 violations that it believed to have occurred after the LSCI. Of these 18 violations, DOGM properly cited all violations during or after the RSI. This data reflects a trend noted in the EY 1992 and 1991 AER's that DOGM is more cooperative in citing violations when accompanied by OSM than it was during past EY's.

In addition to the violations noted above, OSM also observed two permit defects during RSI's. This is a considerable decrease from the 17 permit defects observed during the EY 1992.

**Regulatory Program Element 5: Civil Penalties**

**Sub-elements Reviewed:** E.1. Penalty assessment procedures; E.2. Documentation of rationale for penalty assessment amounts, waivers and adjustments; and E.3. Maintenance of enforcement value.

**Type of Review:** 2, 2, and 2

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**Summary Findings:** OSM reviewed a 100 percent sample of proposed civil penalty assessments for all three evaluation years (E.1.). During EY 1993, DOGM assessed 53 percent of the proposed civil penalty assessments late. This is compared to 40 percent late in EY 1992 and 22 percent late in EY 1991. The database shows the range for timely assessments is 1 to 16 days before the 30th day, with 70 percent assessed on the 27th, 28th, 29th, and 30th day. The database shows that the range for untimely assessments is 1 to 31 days, with 82 percent being late by 5 days or less. Once again, this subelement has a problem which calls for additional refinement in this program area. This subelement will continue to be monitored in EY 1994.

DOGM did not meet the 60-day timeframe for 3 of 8 assessment conferences (38 percent) held in EY 1993. The late assessment conferences considered 26 percent (6 of 23) of the enforcement actions in EY 1993. This is an improvement over the previous 2 evaluation years when 47 percent (1992) and 41 percent (1991) of assessment conferences were late. The late assessment conferences in those evaluation years resulted in approximately 55 percent of enforcement actions being assessed late.

OSM reviewed a 100 percent sample for EY 1993 concerning the documentation of the rationale for penalty assessment amounts, waivers, and adjustments. At the time of evaluation, the sample contained 39 enforcement actions (NOV's and CO's). During EY 1993, OSM found problems with 50 percent of the civil penalty assessments problems. These problems were similar in nature to those found during EY's 1991 and 1992. The most commonly identified problems were: inadequate explanations for the proposed or reduced assessments, discrepancies in the assignment of points from one NOV to another, assignment of good faith points with no apparent documentation or contrary to documentation and DOGM's guidelines, or assessments issued or adjusted which did not appear to appropriately consider DOGM's inspectors' statements. The recommendation was made to DOGM that every proposed assessment, reduced assessment, and enforcement action termination date needs to be fully documented. Also, DOGM's guidelines concerning easy and difficult abatement and the awarding of points in other categories, especially for potential damage, needs to be followed. This subelement will continue to be monitored in EY 1994.

OSM reviewed all civil penalty payments for EY 1993, EY 1992, and EY 1991. During EY 1993, DOGM received 73 percent of the civil penalty payments late. This is an increase from 46 percent paid late in EY 1992 and 21 percent paid late in EY 1991. The principal reason for the large number of late payments is that the majority of paid assessments (34 percent)

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were made against a single company which is in financial difficulties. At this time, it appears that DOGM needs to review its internal procedure and increase its efforts to insure timely civil penalty payments. This subelement will continue to be monitored in EY 1994.

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### **Regulatory Program Element 6: Administrative and Judicial Review**

**Sub-elements Reviewed:** F.1. Review procedures; F.2. Appeal or remediation of adverse decisions; and F.3. Cost recovery procedures and decisions.

**Type of Review:** 2, 2, and 2

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**Summary Findings:** The 1992 AER listed three program amendment issues concerning administrative and judicial review procedures which DOGM would address during EY 1993. These issues were partially addressed by DOGM during EY 1993. The issue concerning a joint appointment of the Informal Hearings Officer and the Informal Assessment Conference Officer by the DOGM Director and the Utah Board of Oil, Gas and Mining was proposed in State program amendment UT-021-INF. The second program amendment issue will be resolved when the State program includes burden of proof requirements similar to the Federal requirements. The remaining program issue concerned the availability of informal public hearings whenever requested, rather than only when the enforcement action requires the cessation of mining. OSM is expecting this amendment to be submitted during EY 1994. The only programmatic concern at this time is that the currently used procedures for granting informal public hearing requests, which allow greater flexibility than the approved State program, need to be incorporated into the State program.

OSM expressed concern to DOGM regarding the withdrawal of the enforcement action against the Bear Canyon Mine during EY 1993. Although not an overturned enforcement action by the Board, it could still involve an adverse programmatic implication. DOGM withdrew the Order to Show Cause after a potential pattern of violations had been determined by the Director on the grounds that DOGM "would be found to be more stringent in the application of the parallel Federal statute and rules." DOGM based its decision on USDI-ALJ decisions and an internal OSM field office memorandum. OSM subsequently informed DOGM that it misinterpreted these documents and that it has the responsibility to follow the approved State program. The State program is similar to the Federal regulations concerning Orders to Show Cause. DOGM stated that it would submit to OSM a new draft policy on the identification of a pattern of violations.

No petitions have been filed to recover costs associated with litigation expenses and attorney's fees.

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**Regulatory Program Element 7:** Designation of Lands Unsuitable for Mining

**Sub-elements Reviewed:** None

**Type of Review:** 0

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**Summary Findings:** This element was not selected for review during this EY. It is scheduled for review during EY 1995.

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### **Regulatory Program Element 8: Blaster Certification**

**Sub-elements Reviewed:** H.1. Training; H.2. Certification; and H.3. Suspension and revocation.

**Type of Review:** 2, 2, and 2

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**Summary Findings:** The OSM/WSC reviewer attended DOGM's two day blaster's training course. The reviewer evaluated the course outline, examination, and instructional materials while attending this course.

DOGM conducts blaster's training, retraining, testing, certification and recertification each year. The training is taught by a nationally recognized teacher used by industry, State and Federal agencies. The training course lasts for five days, with the last two days consisting of retraining. DOGM's training and examination address all of the topics required by the rules at R645-105.

DOGM's application contains information on employment history and required training. DOGM usually knows the applicants prior to receipt of their applications. If the applicant is not known, an inquiry is made into the applicant's background.

DOGM has an established regulatory procedure in place to follow in the case of the need to suspend or revoke a blaster's certification. DOGM conducts its Blaster Certification program in an effective manner. No problems were noted during OSM's review.

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***Regulatory Program Element*** 9: Small Operator Assistance

***Sub-elements Reviewed:*** None

***Type of Review:*** 0

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**Summary Findings:** This element was not selected for review during this EY. It is scheduled for review during EY 1994.

***Regulatory Program Element 10: Maintenance of Approved Program***

***Sub-elements Reviewed:*** J.1. Notification to OSM of program changes and significant conditions and events affecting implementation; J.2. Response to Part 732 notifications and codified conditions and amendment requirements; and J.3. Promulgation and implementation of approved program amendments.

***Type of Review:*** 0

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***Summary Findings:*** This element was not selected for review during this EY. It is scheduled for review during EY 1995.

***Regulatory Program Element 11: Program Administration***

***Sub-elements Reviewed:*** K.1. Grants management.

***Type of Review:*** 2

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**Summary Findings:** OSM reviewed all documents received involving grant transactions. DOGM continues to administer and manage grants in accordance with the Department of the Treasury, the Department of the Interior, and the Office of Management and Budget requirements. The State continues to operate its cash drawdown system on a reimbursement basis, which is in full compliance with Federal cash management requirements. The State's single audit report demonstrates that the audit requirement is being met. The single audit reviewed DOGM's accounting practices, and the report noted no concerns about the program's accounting for income and expenditures. No regulatory program costs were questioned. Contacts with DOGM revealed no significant concerns in grants management.

## **VIII. Summary Findings**

### **B. AMLR Program**

**AMLR Program Element 1: Project Planning**

**Sub-elements Reviewed:** (3) Interagency Coordination; and (4) Project Design

**Type of Review:** 2

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**Summary Findings:** DOGM satisfactorily consulted and coordinated activities with other State and Federal agencies to comply with the National Environmental Policy Act (NEPA) and other requirements. The AMR Program's performance during the previous period in this respect was also satisfactory, though a review summary was not included in the previous report. OSM's evaluation is based on review of two construction grant applications, DOGM's project files for 11 projects, OSM project files for 11 projects, and OSM's evaluation support data files.

DOGM used technically and fiscally prudent and environmentally sound designs developed through previous experience and in response to site-specific needs incorporating considerations for cost, suitability and long-term success. Though OSM did not summarize its review of this subelement in the previous evaluation report, the Program's performance in this respect during the 1992 period also was satisfactory. This evaluation is based on OSM's field reviews of ten projects, and review of DOGM's specifications for nine projects and project files for five projects, as well as OSM's project files for 11 projects.

The Inventory Maintenance, Project Selection, Rights of Entry, and Lien Eligibility Determinations subelements were not scheduled for review during this evaluation period. All are scheduled for review in the 1995 period. No problems were noted with these subelements during the 1993 evaluation year. One issue noted in the previous report concerning DOGM's waivers of potential liens using a criterion restricted to the Board of Oil, Gas and Mining was corrected by enactment of a revision to the Utah Code by Utah's Legislature authorizing DOGM to waive liens under that provision.

**AMLR Program Element 2: Project Construction**

**Sub-elements Reviewed:** (1) Adequacy of Contract Terms and Specifications

**Type of Review:** 2

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**Summary Findings:** DOGM prepares contract terms and specifications to be consistent with the project scope and goals approved in the construction grant and to comply with environmental protection measures developed during the NEPA consultation process. This subelement was not reviewed in the 1992 period but no problems were noted at that time, either. OSM's evaluation is based on field visits to ten projects and discussions with DOGM officials.

OSM did not summarize reviews of the Construction Management, Post-construction Monitoring and Evaluation, Project Maintenance, Lien Recording and Maintenance, or Emergency Investigations and Abatement Efforts subelements during the 1993 evaluation year. No problems with these aspects of DOGM's program were noted during the period. However, in the 1992 period, OSM noted that DOGM did not specifically schedule visits to a sample of completed projects to evaluate maintenance needs or to evaluate the effectiveness of completed reclamation as suggested by the March 6, 1980, final AML guidelines. Instead, DOGM checked reclamation whenever its staff were in the vicinity of completed projects. OSM concluded that, overall, Utah's reclamation achieved project goals for site restoration and long-term hazard abatement in a cost-effective manner. Construction Management and Post-construction Monitoring and Evaluation are scheduled for review in the 1994 evaluation year. Project Maintenance and Lien Recording and Maintenance will be reviewed in the 1995 period.

OSM did not review DOGM's Emergency Investigations and Abatement Efforts in the 1993 evaluation year because DOGM does not have an emergency program.

**AMLR Program Element 3: Program Administration**

**Sub-elements Reviewed:** (1) Grants Management - Drawdowns and Disbursements, Accounting Procedures, and Audits and Implementation; (2) Data Management; and (4) Management and Disposal of Abandoned Mine Lands

**Type of Review: 2**

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**Summary Findings:** Utah administers and manages Federal grants in accordance with the Department of the Treasury, the Department of the Interior, and the Office of Management and Budget requirements. The State operates on a reimbursement basis which is in full compliance with Federal cash management requirements. Utah's Single Audit Report did not question any expenditures by the Utah AMR Program. Auditors did not identify any material deficiencies in Utah's financial management of grants. This aspect of DOGM's program was not reviewed in the previous evaluation period, though OSM did not note any problems at that time, either. OSM's evaluation is based on its review of grant applications, semi-annual and final financial reports, drawdown records, and Utah's Single Audit Report for the year ending June 30, 1991.

DOGM compiled and submitted information sufficient to meet its internal program needs and OSM's minimum data requirements. OSM negotiated revised reporting requirements with DOGM to supplement the State's present grants reporting. That should enable OSM to minimally monitor the State's performance under OSM's simplified grants program, which will depend on State reporting to make up for greatly abbreviated grant applications. This aspect of DOGM's program was not reviewed in the previous period. OSM's evaluation is based on review of semi-annual progress and financial reports for four construction and two administration grants.

DOGM did not acquire, manage, and/or dispose of abandoned mine land to facilitate reclamation during the 1993 evaluation period. No lands were acquired in previous periods either. This evaluation is based on OSM's review of four construction grant applications and two administration grant applications.

The Timeliness of Applications, Maintenance of Internal Controls, and Procurement and Management of Property and Services sub-subelements and the Coordination With Other Agencies subelement were not reviewed in this period. OSM is not aware of any problems with these aspects of the State's program during the 1993 evaluation year. OSM will review Maintenance of Internal Controls and Procurement and Management of Property and Services in the 1994 period. Timeliness of Applications and Coordination with Other Agencies are scheduled for review for the 1995 evaluation.

OSM did not review the Subsidence Insurance Program Management subelement because Utah does not have subsidence insurance program.

**AMLR Program Element 4: Maintenance of Approved Reclamation Plan**

**Sub-elements Reviewed:** (1) Notification to OSM of Significant Conditions and Events Affecting Plan Implementation; (2) Responses to OSM Notifications That Plan Amendments Are Needed; and (3) Promulgation and Implementation of Approved Plan Amendments

**Type of Review: 2**

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**Summary Findings:** No events or conditions occurred that prevented or impeded DOGM's adherence to its approved AMR plan. This is the first scheduled review of this subelement. OSM's evaluation is based on its review of DOGM's plan, code, and AMR rules, the State's responses to OSM issue and notification letters, and discussions with DOGM officials.

DOGM's response concerning changes to the Utah Code as a result of OSM's discussion of a lien issue in the 1992 Annual Evaluation Report was timely. DOGM's response concerning changes to the Utah Code as a result of AMRA was timely. The State has not yet formally responded to OSM's notification of AMR plan and rules changes required by the Energy Policy Act of 1992. DOGM plans to take over the emergency program as soon as an amendment can be submitted, reviewed, and approved. Utah is waiting for OSM to promulgate final regulations implementing AMRA and the Energy Policy Act before revising its rules. This is the first year this subelement was scheduled for review. OSM's evaluation is based on its review of DOGM's plan, code, and AMR rules, the State's responses to OSM issue and notification letters, DOGM's comments on the 1992 evaluation report, and discussions with DOGM officials.

Utah's work to have a proposed Code revision before its 1993 Legislature authorizing DOGM to waive potential liens under authority previously reserved for the Board of Oil, Gas and Mining in response to OSM's discussion of liens in the 1992 Annual Evaluation Report was timely. DOGM's work to have proposed Code revisions before the 1992 Legislature incorporating provisions similar to those revisions to SMCRA made by AMRA was timely. Rules changes to implement the Utah Code changes have not been made pending promulgation of final Federal regulations implementing AMRA. This is the first year this subelement was scheduled for review. OSM's evaluation is based on review of DOGM's plan, code, and AMR rules, the State's responses to OSM issue and notification letters, DOGM's comments on the 1992 evaluation report, and discussions with DOGM officials.

# APPENDIX A

## **Tabular Summaries of Data Pertaining to Mining, Reclamation and Program Administration**

These tables present data pertinent to mining operations, State and Federal regulatory activities and the reclamation of abandoned mines within Utah. They also summarize funding provided by OSM and Utah staffing. Unless otherwise specified, the reporting period for the data contained in all tables is the 1993 evaluation year (July 1, 1992 - June 30, 1993). Additional data used by OSM in its evaluation of Utah performance is available for review in the evaluation files maintained by the Albuquerque Field Office.

**TABLE 1**

<b>COAL PRODUCTION</b> <b>(Millions of Short Tons)</b>			
<b>Calendar year</b>	<b>Surface mines</b>	<b>Underground mines</b>	<b>Total</b>
1990	0	21.6	21.6
1991	0	21.9	21.6
1992	0	21.33	21.34

TABLE 2

INSPECTABLE UNITS (As of June 30, 1993)												
Coal mines and related facilities	Number and status of units									Acreage <sup>A</sup> (hundreds of acres)		
	Active		Inactive			Abandoned		Totals				
			Temporary cessation	Phase II bond release								
	IP	PP	PP	IP	PP	IP	PP	IP	PP	IP	PP	Total
STATE and PRIVATE LANDS REGULATORY AUTHORITY: UTAH												
Surface mines	0	1	0	0	0	0	0	0	1	0	3.10	3.10
Underground mines	1	18	2	0	0	1	2	2	22	.54	509.64	510.18
Other facilities	0	2	0	0	0	0	0	0	2	0	6.41	6.41
Subtotals	1	21	2	0	0	1	2	2	25	.54	519.15	519.69
FEDERAL LANDS REGULATORY AUTHORITY: UTAH/OSM												
Surface mines	0	0	0	0	0	0	0	0	0	0	0	0
Underground mines	0	16	2	0	0	0	0	0	16	0	801.80	801.80
Other facilities	0	2	0	0	0	0	0	0	2	0	1.24	1.24
Subtotals	0	18	2	0	0	0	0	0	18	0	803.04	803.04
INDIAN LANDS REGULATORY AUTHORITY: OSM												
Surface mines	0	0	0	0	0	0	0	0	0	0	0	0
Underground mines	0	0	0	0	0	0	0	0	0	0	0	0
Other facilities	0	0	0	0	0	0	0	0	0	0	0	0
Subtotals	0	0	0	0	0	0	0	0	0	0	0	0
ALL LANDS <sup>B</sup>												
Surface mines	0	1	0	0	0	0	0	0	1	0	3.10	3.10
Underground mines	1	19	4	0	0	1	2	2	25	.54	1311.44	1311.98
Other facilities	0	4	0	0	0	0	0	0	4	0	7.65	7.65
Totals	1	24	4	0	0	1	2	2	30	.54	1322.19	1322.73
Average number of permits per inspectable unit (excluding exploration sites) ..... 1												
Average number of acres per inspectable unit (excluding exploration sites) ..... 4134												
Number of exploration permits on State and private lands: ..... 1 On Federal lands: ..... 0 <sup>C</sup>												
Number of exploration notices on State and private lands: ..... 3 On Federal lands: ..... 3 <sup>C</sup>												
IP: Initial regulatory program sites. PP: Permanent regulatory program sites. <sup>A</sup> When a unit is located on more than one type of land, includes only the acreage located on the indicated type of land. <sup>B</sup> Numbers of units may not equal the sum of the three preceding categories because a single inspectable unit may include lands in more than one of the preceding categories. <sup>C</sup> Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management.												

TABLE 3

STATE INSPECTION ACTIVITY							
Type of inspectable unit	Number of inspections conducted		Percent of required inspections conducted <sup>A</sup>		Inspectable units for which State met required inspection frequency		
	Complete inspections	Partial inspections	Complete inspections	Partial inspections	Complete inspections	All inspections	
COAL MINES AND FACILITIES					Number	%	Number %
Active	99	195	97	99	22	88	21 84
Inactive	17	23	100		4	100	4 100
Abandoned	14	22	100	100	3	100	3 100
Totals	130	240	98	99	29	91	28 87
Exploration permits <sup>B</sup>	1	7					
Exploration notices <sup>B</sup>	0	3					

<sup>A</sup> Calculated on a site-specific basis. Excess complete inspections are considered partial inspections. For each site, any inspections in excess of the total number required by the approved program are not included.

<sup>B</sup> Includes all valid or unreclaimed notices and permits. No inspection frequency data are provided since SMCRA does not establish a minimum numerical inspection frequency for coal exploration activities.

TABLE 4

TRENDS IN INSPECTABLE UNITS AND STATE INSPECTIONS				
Evaluation Year		1991	1992	1993
Inspectable units for which State has jurisdiction				
Surface mines:	Active	0	0	1
	Inactive	0	0	0
	Abandoned	0	0	0
Subtotals for surface mines		0	0	0
Underground mines:	Active	23	22	20
	Inactive	3	3	4
	Abandoned	2	3	3
Subtotals for underground mines		28	28	27
Other facilities:	Active	4	4	4
	Inactive	0	0	0
	Abandoned	0	0	0
Subtotals for other facilities		4	4	4
All mine types:	Active	27	26	25
	Inactive	3	3	4
	Abandoned	2	3	3
Totals		32	32	32
Exploration permits		1	1	1
Exploration notices		11	12	6
State inspections conducted (Exclusive of exploration sites)				
Complete		143	145	130
Partial		222	244	240
Totals		365	389	370
Percent of required State inspections conducted				
Complete inspections		100	98	98
All inspections		100	99	99
Citizen complaints received		3	3	0

TABLE 5

STATE AND OSM ENFORCEMENT ACTIVITY						
Type of enforcement action taken	Actions taken by State		Actions taken by OSM on:			
			Sites where State is the primary regulatory authority		Sites where State is NOT the primary regulatory authority	
	Number of actions	Number of violations	Number of actions	Number of violations	Number of actions	Number of violations
Notice of violation issued	73	52	1	3	N/A	N/A
Imminent harm cessation order issued	1	1	0	0	N/A	N/A
Failure-to-abate cessation order	4	5	0	0	N/A	N/A
Show cause order issued for pattern of violations	0				N/A	N/A
Permit suspended <sup>A</sup>	0				N/A	N/A
Permit revoked	0				N/A	N/A
Individual civil penalty assessed	0	0	0	0	N/A	N/A
Criminal penalty requested	0	0	0	0	N/A	N/A
Criminal penalty assessed	0	0	0	0	N/A	N/A
Injunction requested	0	0	0	0	N/A	N/A
Injunction obtained	0	0	0	0	N/A	N/A
Settlement agreement approved in lieu of further enforcement action	4	4	0	0	N/A	N/A
<sup>A</sup> Average duration of permit suspension: <u>    N/A    </u> (Utah) <u>    N/A    </u> (OSM)						

TABLE 6

OSM INSPECTIONS OF SITES WHERE THE STATE IS THE PRIMARY REGULATORY AUTHORITY							
Type of unit inspected	Number of inspections by inspection type						
	Random sample	State bond release	Other oversight	Ten-day notice followup <sup>A</sup>	Enforcement action followup	Other	Totals
<b>Type of mine or facility<sup>B</sup></b>							
Surface mines	0	0	0	0	0	0	0
Underground mines	13	2	0	1	0	0	16
Preparation plants	1	0	0	0	0	0	1
Other facilities	1	0	0	0	0	0	1
Totals	15	2	0	1	0	0	18
<b>Mine activity status<sup>B</sup></b>							
Active	12	0	0	0	0	0	8
Inactive	3	2	0	1	0	0	10
Abandoned			0	0	0	0	0
Total bond release		0	0	0	0	0	0
Bond forfeiture <sup>C</sup>			0	0	0	0	0
Permit not started			0	0	0	0	0
Unpermitted			0	0	0	0	0
<b>Type of permit<sup>B</sup></b>							
Initial program	0	1	0	1	0	0	2
Permanent program	15	1	0	0	0	0	16
Unpermitted			0	0	0	0	0
<b>Coal exploration sites</b>							
Exploration permits			0	0	0	0	0
Exploration notices			0	0	0	0	0
<sup>A</sup> In those States that have not entered into a State - OSM cooperative agreement providing for State regulation of mining and exploration on Federal lands. <sup>B</sup> Does not include coal exploration sites. <sup>C</sup> Activity status not determined.							

TABLE 7

OSM INSPECTIONS OF SITES WHERE THE STATE IS NOT THE PRIMARY REGULATORY AUTHORITY								
Type of unit inspected	Type of program under which inspections were conducted							
	Federal lands <sup>A</sup>		Indian lands		Other		Totals	
	Complete insp.	Partial insp.	Complete insp.	Partial insp.	Complete insp.	Partial insp.	Complete insp.	Partial insp.
Type of mine or facility <sup>B</sup>								
Surface mines	0	0	0	0	0	0	0	0
Underground mines	0	0	0	0	0	0	0	0
Preparation plants	0	0	0	0	0	0	0	0
Other facilities	0	0	0	0	0	0	0	0
Totals	0	0	0	0	0	0	0	0
Mine activity status								
Active	0	0	0	0	0	0	0	0
Inactive	0	0	0	0	0	0	0	0
Abandoned	0	0	0	0	0	0	0	0
Total bond release	0	0	0	0	0	0	0	0
Bond forfeiture <sup>C</sup>	0	0	0	0	0	0	0	0
Permit not started	0	0	0	0	0	0	0	0
Unpermitted	0	0	0	0	0	0	0	0
Type of permit								
Initial program	0	0	0	0	0	0	0	0
Permanent program	0	0	0	0	0	0	0	0
Unpermitted	0	0	0	0	0	0	0	0
Coal exploration sites								
Exploration permits	0	0	0	0	0	0	0	0
Exploration notices	0	0	0	0	0	0	0	0
<sup>A</sup> In those States that have not entered into a State - OSM cooperative agreement providing for State regulation of mining and exploration on Federal lands. <sup>B</sup> Does not include coal exploration sites. <sup>C</sup> Activity status not determined.								

**TABLE 8**

<b>OSM RANDOM SAMPLE INSPECTION COMPLIANCE FINDINGS</b>		
<b>Number of sites inspected <u>16</u></b>		
<b>Number of violations per inspectable unit</b>	<b>Inspectable units with indicated number of violations observed by OSM<sup>A</sup></b>	
	<b>Number</b>	<b>Percent<sup>B</sup></b>
None	6	37.50
1	4	25.00
2	0	0
3	3	18.75
4	1	6.25
5	1	6.25
6	0	0
7	0	0
8	0	0
9	0	0
10	0	0
20	1	6.25
<p><sup>A</sup> Does not include violations in ten-day notices on appeal to the Deputy Director or that have not been affirmed on appeal.</p> <p><sup>B</sup> Percent of total number of sites inspected on which indicated number of violations were observed.</p> <p><u>Note:</u> This table differs from Tables 9 and 10 in that it depicts the number of violations observed by OSM inspectors on random sample inspections in Utah during EY 1993 without regard to when the violation occurred. It provides a general indication of how effectively the industry has incorporated environmental protection into its standard operating procedures. Because States cannot control the incidence of violations, this table should not be interpreted as an indicator of State performance. Also, since this table is intended to reflect only the extent of industry compliance at the time of the OSM random sample inspection, it excludes all violations previously cited by the State which no longer exist at the time of the OSM inspection.</p>		

TABLE 9

DISTRIBUTION OF VIOLATIONS <sup>A</sup> ON OSM RANDOM SAMPLE INSPECTION SITES BY PERFORMANCE STANDARD			
Performance standard category	Violations present at time of last State complete inspection		Other violations observed by OSM
	Number cited by State	Number uncited by State	
A. Administrative			
1. Mining within Valid Permit	0	0	0
2. Mining within Bonded Area	0	2	0
3. Terms & Conditions of Permit	0	0	2
4. Liability Insurance	0	0	0
5. Ownership and Control	0	1	0
6. Temporary Cessation	0	0	0
B. Hydrologic Balance			
1. Drainage Control	0	2	2
2. Inspections & Certifications	1	0	2
3. Siltation Structures	0	1	3
4. Discharge Structures	0	0	0
5. Diversions	1	3	2
6. Effluent Limits	0	0	1
7. Ground Water Monitoring	0	1	0
8. Surface Water Monitoring	0	0	1
9. Drainage--Acid-Toxic Materials	0	0	0
10. Impoundments	0	2	0
11. Stream Buffer Zones	0	1	0
C. Topsoil & Subsoil			
1. Removal	0	0	0
2. Substitute Materials	0	0	0
3. Storage and Protection	0	0	1
4. Redistribution	0	0	0
D. Backfilling & Grading			
1. Exposed Openings	0	0	0
2. Contemporaneous Reclamation	0	0	0
3. Approximate Original Contour	0	1	0
4. Highwall Elimination	0	1	0
5. Steep Slopes (includes downslope)	0	0	0
6. Handling of Acid & Toxic Material	0	1	0
7. Stabilization (rills and gullies)	0	3	1

Table 9 continued on next page

TABLE 9 (Continuation)

DISTRIBUTION OF VIOLATIONS <sup>A</sup> ON OSM RANDOM SAMPLE INSPECTION SITES BY PERFORMANCE STANDARD			
Performance standard category	Violations present at time of last State complete inspection		Other violations observed by OSM
	Number cited by State	Number uncited by State	
<b>E. Excess Spoil Disposal</b>			
1. Placement	0	0	0
2. Drainage Control	0	0	0
3. Surface Stabilization	0	0	0
4. Inspections & Certifications	0	0	0
<b>F. Coal Mine Waste (Refuse/Impound)</b>			
1. Drainage Control	0	0	0
2. Surface Stabilization	0	0	0
3. Placement	0	1	0
4. Inspections & Certifications	0	1	0
5. Impounding Structures	0	0	0
<b>G. Use of Explosives</b>			
1. Blaster Certification	0	0	0
2. Distance Prohibitions	0	0	0
3. Blast Survey/Schedule	0	0	0
4. Warnings & Records	0	0	0
5. Control of Adverse Effects	0	0	0
<b>H. Subsidence Control Plan</b>	0	0	0
<b>I. Roads</b>			
1. Road Construction	0	0	1
2. Certification	0	0	0
3. Drainage	0	0	0
4. Surfacing and Maintenance	0	1	0
5. Reclamation	0	0	0
<b>J. Signs &amp; Markers</b>			
1. Signs	0	0	0
2. Markers	1	1	1
<b>K. Distance Prohibitions</b>	0	0	0
<b>L. Revegetation</b>			
1. Vegetative Cover	1	0	1
2. Timing	0	1	0
<b>M. Postmining Land Use</b>	0	0	0
<b>N. Other</b>	1	2	0
<b>Totals (from both pages)</b>	5	26	18
<sup>A</sup> Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.			
<b>Note:</b> For all sites on which OSM conducted random sample inspections in Utah during EY 1993, Table 9 provides a breakdown by performance standard of the number of violation that were present at the time of the last State complete inspection (LSCI), including those previously cited by the State and no longer present at the time of the OSM inspection. It also categorizes these violations by whether they were cited or uncited by the State inspector at the time of the LSCI. In addition, the last column categorizes all other OSM observed violations by the type of performance standard violated.			

**TABLE 10**

SERIOUSNESS OF VIOLATIONS <sup>A</sup> PRESENT AT TIME OF LAST STATE COMPLETE INSPECTION (On OSM Random Sample Inspection Sites)								
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS REMAINING WITHIN PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of impact or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>
None or unlikely	2	3	0	1	0	0	2	4
Likely	1	2	1	2	0	1	2	5
Occurred	1	1	0	4	0	2	1	7
Subtotals	4	6	1	7	0	3	5	16
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS EXTENDING OUTSIDE PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of actual or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>
None or unlikely	0	0	0	2	0	0	0	2
Likely	0	0	0	2	0	2	0	4
Occurred	0	1	0	2	0	0	0	3
Subtotals	0	1	0	6	0	2	0	9
NUMBER OF ADMINISTRATIVE (RECORDKEEPING) VIOLATIONS								
	Degree of obstruction to enforcement						Totals	
	Minor		Moderate		Considerable			
	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>
	0	1	0	0	0	0	0	1
ALL TYPES OF VIOLATIONS								
	Degree of impact or obstruction						Totals	
	Minor		Moderate		Considerable			
	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>	Cited <sup>B</sup>	Uncited <sup>C</sup>
TOTALS (entire table)	4	8	1	13	0	5	5	26
<sup>A</sup> Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.								
<sup>B</sup> Violations cited by the State at the time of the last State complete inspection.								
<sup>C</sup> Violations not cited by the State at the time of the last State complete inspection.								
<b>Note:</b> For all sites on which OSM conducted random sample inspections in Utah during EY 1993, Table 10 summarizes the seriousness of those violations which existed at the time of the last State complete inspection (LSCI), including those violations which were previously cited by the State but no longer exist at the time of the OSM inspection. It also characterizes the seriousness of these violations according to whether they were cited by the State at the time of the LSCI.								

**TABLE 11**

<b>CITIZEN COMPLAINTS</b>		
<b>Number of complaints</b>	<b>State</b>	<b>OSM</b>
Action pending as of July 1, 1992	0	1
Complaints received in EY 1993	0	0
Complaints referred to State	0	0
Complaints investigated	0	0
Responses provided to complainant	0	0
Action pending as of June 30, 1993	0	0

**TABLE 12**

<b>PERMIT APPLICATIONS RECEIVED BY STATE</b>				
<b>Type of application</b>	<b>Surface mines</b>	<b>Underground mines</b>	<b>Other facilities</b>	<b>Totals</b>
New permits	0	0	1	1
Renewals	0	1	0	1
Transfers, sales and assignments of permit rights	0	1	0	1
Small operator assistance	0	0	0	0
Exploration permits	0	0	0	0
Totals	0	2	1	3

TABLE 13

STATE PERMITTING ACTIONS (Applications Approved and Authorizations to Operate Issued)								
Type of application	Surface mines		Underground mines		Other facilities		Totals	
	No.	Acres	No.	Acres <sup>A</sup>	No.	Acres	No.	Acres
New permits	0	0	0	0	1	33	1	0
Renewals	0	0	1	34.2	0	0	1	0
Revisions (exclusive of incidental boundary revisions)	0		87		10		97	
Incidental boundary revisions	0	3	0	0	0		3	0
Transfers, sales and assignments of permit rights	0		1		0		1	
Small operator assistance	0		0		0		0	
Exploration permits	0		0		0		0	
Exploration notices <sup>B</sup>	0		1		0		1	
Totals	0	0	92	0	11	0	103	0
Number of permits identified by OSM as being improvidently issued <sup>C</sup> . . . . .								0
Number of improvidently issued permits for which the State took appropriate corrective action. . . . .								0
<sup>A</sup> Includes only the number of acres of proposed surface disturbance. <sup>B</sup> State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining. <sup>C</sup> Permits meeting the criteria of 30 CFR 773.20(b) and requiring rescission or other action by the State.								

**TABLE 14**

<b>BONDS RELEASED BY STATE (Permanent Program Permits)</b>		
<b>Reclamation phase</b>	<b>Number of release applications approved</b>	<b>Acres released</b>
I	0	0
II	1	4.0
III	1	4.0

TABLE 15

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
	Sites	Dollars	Acres
Bonds forfeited as of July 1, 1992 <sup>A</sup>	4	263,380	28.5
Bonds forfeited during EY 1993	0	0	0
Forfeited bonds collected as July 1, 1992 <sup>A</sup>	0	72,180	9
Forfeited bonds collected during EY 1993	0	0	0
Forfeiture sites reclaimed during EY 1993	1	38,000 <sup>B</sup>	7.0
Forfeiture sites repermited during EY 1993	0		0
Forfeiture sites unreclaimed as of June 30, 1993	0		0
Excess reclamation costs recovered from permittee	0	0	0
Excess forfeiture proceeds returned to permittee	0	0	0
<sup>A</sup> Includes data only for those forfeiture sites not fully reclaimed as of this date. <sup>B</sup> Cost of reclamation, excluding general administrative expenses.			

**TABLE 16**

<b>STATUS OF STATE'S BOND POOL OR FORFEITURE RECLAMATION FUND</b> <b>(For States with Alternative Bonding Systems)</b>		
	July 1, 1992	June 30, 1993
Number of participating permits	N/A	N/A
Acreage of participating permits	N/A	N/A
Fund balance	N/A	N/A
Fund income		N/A
Expenditures		N/A
Funds restricted to use on a specific site (to be returned if permittee reclaims site)	N/A	N/A
<b>Reclamation liabilities<sup>A</sup></b>		
Number of sites	N/A	N/A
Acres	N/A	N/A
Estimated cost of reclamation	N/A	N/A
Portion of estimated reclamation cost covered by site-restricted bonds	N/A	N/A
<sup>A</sup> Includes cost of reclaiming all sites for which the State has issued final bond forfeiture orders.		

TABLE 17

LANDS UNSUITABLE PETITIONS	
<b>Petitions seeking to designate lands as unsuitable for mining</b>	
Decisions pending as of July 1, 1992 .....	<u>0</u>
Petitions received during EY 1993 .....	<u>0</u>
Petitions approved during EY 1993 .....	<u>0</u>
Petitions rejected during EY 1993 .....	<u>0</u>
Petitions approved in part/rejected in part during EY 1993 .....	<u>0</u>
Decisions pending as of June 30, 1993 .....	<u>0</u>
<b>Petitions seeking to terminate previous lands unsuitable designations</b>	
Decisions pending as of July 1, 1992 .....	<u>0</u>
Petitions received during EY 1993 .....	<u>0</u>
Petitions approved during EY 1993 .....	<u>0</u>
Petitions rejected during EY 1993 .....	<u>0</u>
Petitions approved in part/rejected in part during EY 1993 .....	<u>0</u>
Decisions pending as of June 30, 1993 .....	<u>0</u>

TABLE 18

<b>UTAH STAFFING</b> <b>(Fulltime Equivalents at End of Evaluation Year)</b>			
Function	EY 1991	EY 1992	EY 1993
Abandoned mine land reclamation program (total) . . . . .	8.75	9.00	7.00
Regulatory program			
Permit review <sup>A</sup> . . . . .	11.5	13.00	13.00
Inspection <sup>A</sup> . . . . .	4.0	4.0	4.00
Other (general administration, fiscal, personnel, etc.)	6.0	6.5	6.5
<b>Totals for regulatory program</b> . . . . .	21.5	23.5	23.5
Interagency personnel assignments . . . . .	0	0	0
<b>Totals</b> . . . . .	30.25	32.5	30.5
<sup>A</sup> Does not include supervisory or clerical personnel			

TABLE 19

**FUNDS GRANTED TO UTAH BY OSM  
BY EVALUATION YEAR  
(Millions of Dollars)**

Type of grant	Federal funds requested by Utah			Federal funds awarded			Funds deobligated			Percent of total program costs that are Federally funded		
	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
Administration and enforcement	1.39	1.54	1.54	1.16	1.20	1.26	0.00	0.00	0.00	85.5%	85.5%	85.5%
Abandoned mine land reclamation <sup>A</sup>	1.60	1.79	2.09	1.60	1.79	2.09	0.07	0.00	0.00	100%	100%	100%
Small operator assistance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100%	100%	100%
Other	0.06	0.01	0.00	0.01	0.01	0.00	0.00	0.00	0.00	100%	100%	100%
Totals	3.05	3.34	3.63	2.77	3.00	3.35	0.07	0.00	0.00			

<sup>A</sup> Includes administrative grants, construction grants, and cooperative agreements.

TABLE 20

STATUS OF AMLR FUNDS AWARDED TO UTAH (Millions of Dollars)						
Year of award	Funds approved by OSM	Cumulative obligations by Utah	Cumulative outlays by Utah	Funds deobligated by Utah (cumulative)	Funds remaining available for obligation	Percent of grant period lapsed
<b>Administrative grants</b>						
EY 81-91	4.88	4.33	4.33	.55	0.00	100%
EY 92	1.00	.75	.47	0.00	.25	100%
EY 93	0.00	0.00	0.00	0.00	0.00	0%
Subtotals	5.88	5.08	4.80	0.55	0.25	
<b>Construction grants, exclusive of State emergency and noncoal project funding</b>						
EY 81-91	9.12	7.84	7.84	.75	.53	95%
EY 92	.28	.16	.16	0.00	.12	33%
EY 93	0.00	0.00	0.00	0.00	0.00	0
Subtotals	9.40	8.00	8.00	0.75	0.65	
<b>State emergency project funding</b>						
EY 81-91	0.00	0.00	0.00	0.00	0.00	0
EY 92	0.00	0.00	0.00	0.00	0.00	0
EY 93	0.00	0.00	0.00	0.00	0.00	0
Subtotals	0.00	0.00	0.00	0.00	0.00	
<b>Noncoal project funding</b>						
EY 81-91	1.00	.84	.84	.15	.01	95%
EY 92	.51	.38	.36	0.00	.13	33%
EY 93	0.00	0.00	0.00	0.00	0.00	0%
Subtotals	1.51	1.22	1.20	0.15	0.14	
<b>Simplified Grants</b>						
EY 93	2.09	0.00	0.00	0.00	2.09	0%
<b>Cooperative agreements</b>						
All EY	0.00	0.00	0.00	0.00	0.00	0%
<b>Totals</b>	<b>18.88</b>	<b>14.30</b>	<b>14.00</b>	<b>1.45</b>	<b>3.13</b>	
N/A Not-applicable UA Data unavailable						

TABLE 21

**AML RECLAMATION ACHIEVEMENTS  
DURING EVALUATION PERIOD**

Project benefit		AMLIS <sup>A</sup> keyword(s)	Coal mining related	Noncoal mining related
1. Mine openings closed	(number)	MO, P, VO	36	97
2. Landslides stabilized	(acres)	DS	0	0
3. Subsidence-prone areas stabilized and surface deformations repaired	(acres)	S, SP	0	6
4. Hazardous impoundments and other water bodies modified or removed	(number)	HWB, DI	0	0
5. Highwalls modified to minimize safety hazards	(linear feet)	DH	0	0
6. Highwalls eliminated	(linear feet)	H	0	0
7. Mining equipment, structures, and facilities removed	(sites)	HEF, EF	0	0
8. Mine refuse piles and slurry ponds removed or stabilize	(acres)	DPE, GO, SL	0	0
9. Industrial and residential trash dumps and waste disposal sites cleaned up	(acres)	IRW, DP	0	0
10. Silt-clogged stream channels rehabilitated	(miles)	CS	0	0
11. Polluted water supplies and swimming holes improved in quality or replaced	(number)	PWAI, PWHC	0	0
12. Underground mine or coal seam fires controlled	(acres)	UMF	14	0
13. Surface refuse fires extinguished	(acres)	SB	0	0
14. Underground mine gas problems mitigated	(number)	GHE	0	0
15. Mine spoils, pits, benches, and related disturbed areas regraded and/or revegetated	(acres)	CSL, BE, HR, PI, SA	0	0
16. Mine drainage quality improved	(gal./min.)	WA	0	0
17. Other environmental benefits	(itemize)	O	0	0
18. Public facilities constructed or enhanced	(itemize)	P5	0	0
19. Public land developed	(itemize)	P6	0	0
Total acreage reclaimed by all projects .....			17.1	13.6
<sup>A</sup> AMLIS: Abandoned Mine Lands Inventory System				

TABLE 22

<b>AML RECLAMATION ACHIEVEMENTS SINCE PROGRAM APPROVAL</b>				
Project benefit		AMLIS <sup>A</sup> keyword(s)	Coal mining related	Noncoal mining related
1. Mine openings closed	(number)	MO, P, VO	503	855
2. Landslides stabilized	(acres)	DS	1	0
3. Subsidence-prone areas stabilized and surface deformations repaired	(acres)	S, SP	1	6
4. Hazardous impoundments and other water bodies modified or removed	(number)	HWB, DI	1	0
5. Highwalls modified to minimize safety hazards	(linear feet)	DH	1,925	0
6. Highwalls eliminated	(linear feet)	H	400	0
7. Mining equipment, structures, and facilities removed	(sites)	HEF, EF	165	0
8. Mine refuse piles and slurry ponds removed or stabilize	(acres)	DPE, GO, SL	94.6	0
9. Industrial and residential trash dumps and waste disposal sites cleaned up	(acres)	IRW, DP	2.2	0
10. Silt-clogged stream channels rehabilitated	(miles)	CS	2.4	0
11. Polluted water supplies and swimming holes improved in quality or replaced	(number)	PWAI, PWHC	1.3	0
12. Underground mine or coal seam fires controlled	(acres)	UMF	18	0
13. Surface refuse fires extinguished	(acres)	SB	40	0
14. Underground mine gas problems mitigated	(number)	GHE	26	0
15. Mine spoils, pits, benches, and related disturbed areas regraded and/or revegetated	(acres)	CSL, BE, HR, PI, SA	195.2	0
16. Mine drainage quality improved	(gal./min.)	WA	0	0
17. Other environmental benefits	(itemize)	O	0	0
18. Public facilities constructed or enhanced	(itemize)	P5	1	0
19. Public land developed	(itemize)	P6	0	0
Total acreage reclaimed by all projects .....			414	18.1
<sup>A</sup> AMLIS: Abandoned Mine Lands Inventory System				

## **APPENDIX B**

**OSM Cyclical Review Schedule for Evaluating State Program Elements and  
Sub-elements (Evaluation Years 1992-1994)**

**UTAH**  
**CYCLICAL REVIEW SCHEDULE**

**Evaluation Years 1992-1994**

**Regulatory Program Evaluation Codes**

---

- 0 - No evaluation planned
- 1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)
- 2 - Routine cyclical in-depth review
- 3 - Selective-focus evaluation resulting from:
  - (a) Inspection findings
  - (b) Analysis of State data and documents routinely supplied to the Field Office
  - (c) Public concern
  - (d) Action plan item or other previously identified unresolved problem
  - (e) Action plan follow-up (verification of tentative resolutions)
- 4 - National priority review

**AMLR Program Evaluation Codes**

---

- 0 - No evaluation planned
- 1- Standard continuous oversight (routine site visits and/or review of State or Tribal data and documents routinely supplied to the Field Office)
- 2 - Routine cyclical in-depth review
- 3 - Selective-focus evaluation resulting from:
  - (a) Site visit findings
  - (b) Analysis of State or Tribal data and documents routinely supplied to the Field Office
  - (c) Public concern
  - (d) Action plan item or other previously identified unresolved problem
  - (e) Action plan follow-up (verification of tentative resolutions)
- 4 - National priority review

# CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
<b>A. Permitting Actions</b>			
1. Processing of new mining permit applications			
a. Administrative completeness	2	0	0
b. Public notice, availability for public review, consideration of comments and notice of decision	2	0	0
c. Coordination with other permitting authorities and solicitation and consideration of comments from other governmental agencies	2	0	0
d. Completeness and accuracy of data concerning ownership, compliance history, right of entry, and protected lands and structures	2	0	0
e. Adequacy of baseline data	2	0	0
f. Mining and reclamation plan	2	0	0
g. Subsidence control plan	2	0	0
h. PHC/CHIA	2	0	0
i. Liability insurance	2	0	0
j. Written findings and documentation	2	0	0
k. Permit terms and conditions	2	0	0
l. AVS operation, maintenance, and use	2	0	0
2. Processing of exploration applications	2	0	0
a. Application completeness	0	0	2
b. Public notice and consideration of comments	0	0	2
c. Justification for sale or commercial use	0	0	2
d. Written findings and documentation	0	0	2
3. Processing of notices of intent to explore	2	0	0
4. Processing of applications for permit revisions, transfers, assignments, and sales			
a. Determination of significance (revision applications only)	2	0	0
<div> <div> 0 - No evaluation planned  1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)  2 - Routine cyclical in-depth review </div> <div> 3 - Selective-focus evaluation resulting from:  (a) Inspection findings  (b) Analysis of State data and documents routinely supplied to the Field Office  (c) Public concern </div> <div> (d) Action plan item or other previously identified unresolved problem  (e) Action plan follow-up (verification of tentative resolutions)  4 - National priority review </div> </div>			

## CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
b. Public notice (if applicable) and consideration of comments	2	0	0
c. PHC/CHIA reevaluation (revision applications only)	2	0	0
d. Written findings and documentation	2	0	0
5. Processing of permit renewal applications			
a. Completeness	0	0	2
b. Public notice and consideration of comments	0	0	2
6. Midterm permit reviews	2	0	0
7. Periodic reviews of permits for special types of mining	0	0	2
8. Remediation of improvidently issued permits	0	2	0
9. Technical subject evaluation - Subsidence	0	2	0
B. Bonding			
1. Bond instrument tracking and security systems	0	2	0
2. Computation and adequacy of bond amounts	2	0	0
3. Verification of bond instrument validity, value and lack of restrictions	0	2	0
4. Alternative bonding system operation and solvency	N/A	N/A	N/A
5. Bond adjustments and replacements	0	2	0
6. Processing of bond release applications			
a. Public notice, notification of interested parties and consideration of comments	0	0	2
b. Evaluation of adequacy of proposed remaining bond (partial releases only)	0	0	2
c. Documentation that bond release standards have been met	0	0	2
7. Bond forfeiture			
a. Procedures	2	0	0
b. Collection and litigation efforts	2	0	0
c. Reclamation of forfeiture sites	2	0	0
<div> <div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> </div> <div> <div>3 - Selective-focus evaluation resulting from:</div> <div>(a) Inspection findings</div> <div>(b) Analysis of State data and documents routinely supplied to the Field Office</div> <div>(c) Public concern</div> </div> <div> <div>(d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>4 - National priority review</div> </div>			

# CYCLICAL REVIEW SCHEDULE

## REGULATORY PROGRAM

Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
<b>C. Inspections</b>			
1. Inspection frequency and procedures	2	1	1
2. Inspection reports			
a. Accuracy and completeness	2	0	0
b. Documentation of violations, site conditions and mine activity status	2	0	0
3. Maintenance of inspectable units list and inspection database	2	0	0
4. Handling of citizen complaints and requests for inspections	2	0	0
<b>D. Enforcement</b>			
1. Identification and citation of violations	1	3(d)	1
2. Notices of violations and cessation orders			
a. Timeliness of issuance and termination	0	0	2
b. Appropriateness of remedial measures and abatement periods	0	0	2
c. Documentation of reasons for modifications, terminations and vacations	0	0	2
3. Pattern of violations reviews, show cause orders and hearings	2	0	0
4. Timeliness and effectiveness of alternative enforcement actions	2	0	0
5. Responses to ten-day notices	2	1	1
<b>E. Civil Penalties</b>			
1. Penalty assessment procedures	0	2	0
2. Documentation of rationale for penalty assessment amounts, waivers and adjustments	0	2	0
3. Maintenance of enforcement value			
a. Blocking of new permits if penalties unpaid	0	2	0
b. Collection efforts	0	2	0
<div> <div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> </div> <div> <div>3 - Selective-focus evaluation resulting from:</div> <div>(a) Inspection findings</div> <div>(b) Analysis of State data and documents routinely supplied to the Field Office</div> <div>(c) Public concern</div> </div> <div> <div>(d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>4 - National priority review</div> </div>			

## CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
<b>F. Administrative and Judicial Review</b>			
1. Review procedures			
a. Notification of rights	0	2	0
b. Escrowing of penalties	0	2	0
c. Timeliness of hearings and decisions	0	2	0
d. Documentation of decision rationale	0	2	0
2. Appeal or remediation of adverse decisions	0	2	0
3. Cost recovery procedures and decisions	0	2	0
<b>G. Designation of Lands Unsuitable for Mining</b>			
1. Processing of petitions	2	0	0
2. Maintenance of database and inventory system	2	0	0
<b>H. Blaster Certification</b>			
1. Training	0	2	0
2. Certification	0	2	0
3. Suspension and revocation	0	2	0
<b>I. Small Operator Assistance</b>			
1. Application review and verification of eligibility	0	0	2
2. Contract monitoring	0	0	2
3. Reimbursement monitoring and procedures	0	0	2
4. Laboratory certification	0	0	2
<b>J. Maintenance of Approved Program</b>			
1. Notification to OSM of program changes and significant conditions and events affecting implementation	2	1	1
2. Responses to Part 732 notifications and codified conditions and amendment requirements	2	1	1
3. Promulgation and implementation of approved program amendments	2	1	1
<div> <div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> </div> <div> <div>3 - Selective-focus evaluation resulting from:</div> <div>(a) Inspection findings</div> <div>(b) Analysis of State data and documents routinely supplied to the Field Office</div> <div>(c) Public concern</div> </div> <div> <div>(d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>4 - National priority review</div> </div>			

## CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
<b>K. Program administration</b>			
1. Grants management			
a. Drawdowns and disbursements	0	2	0
b. Accounting procedures	0	2	0
c. Timeliness of applications and reports	2	0	0
d. Maintenance of internal controls	0	0	2
e. Audits and implementation of audit recommendations	0	2	0
f. Procurement and management of property and services	0	0	2
2. Data management	0	2	0
3. Coordination with other agencies	0	0	0
4. Identification and resolution of conflicts of interest	0	2	0
<div> <div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> </div> <div> <div>3 - Selective-focus evaluation resulting from:</div> <div>(a) Inspection findings</div> <div>(b) Analysis of State data and documents routinely supplied to the Field Office</div> <div>(c) Public concern</div> </div> <div> <div>(d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>4 - National priority review</div> </div>			

## CYCLICAL REVIEW SCHEDULE

ABANDONED MINE LAND RECLAMATION PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
<b>A. Project Planning</b>			
1. Inventory maintenance	2	0	0
2. Project selection	2	0	0
3. Interagency coordination	0	2	0
4. Project design	0	2	0
5. Rights of entry	2	0	0
6. Lien eligibility determinations	2	0	0
<b>B. Project Construction</b>			
1. Adequacy of contract terms and specifications	0	2	0
2. Construction management	2	0	2
3. Post-construction monitoring and evaluation	2	0	2
4. Project maintenance	2	0	0
5. Lien recording and maintenance	0	0	0
6. Emergency investigations and abatement efforts	N/A	N/A	N/A
<b>C. Program Administration</b>			
1. Grants management			
a. Drawdowns and disbursements	0	2	0
b. Accounting procedures	0	2	0
c. Timeliness of applications and reports	2	0	0
d. Maintenance of internal controls	0	0	2
e. Audits and implementation of audit recommendations	0	2	0
f. Procurement and management of property and services	0	0	2
2. Data management	0	2	0
3. Coordination with other agencies	0	0	0
4. Management and disposal of abandoned mine lands	0	2	0
5. Subsidence insurance program management	N/A	N/A	N/A
<div style="display: flex; justify-content: space-between; font-size: small;"> <div> <p>0 - No evaluation planned</p> <p>1 - Standard continuous oversight (routine site visits and/or review of State or Tribal data and documents routinely supplied to the Field Office)</p> <p>2 - Routine cyclical in-depth review</p> </div> <div> <p>3 - Selective-focus evaluation resulting from:</p> <p>(a) Site visit findings</p> <p>(b) Analysis of State or Tribal data and documents routinely supplied to the Field Office</p> <p>(c) Public concern</p> </div> <div> <p>(d) Action plan item or other previously identified unresolved problem</p> <p>(e) Action plan follow-up (verification of tentative resolutions)</p> <p>4 - National priority review</p> </div> </div>			

## CYCLICAL REVIEW SCHEDULE

ABANDONED MINE LAND RECLAMATION PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
<b>D. Maintenance of Approved Reclamation Plan</b>			
1. Notification to OSM of significant conditions and events affecting plan implementation	0	2	2
2. Responses to OSM notifications that plan amendments are needed	0	2	2
3. Promulgation and implementation of approved plan amendments	0	2	2
<div> <div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> </div> <div> <div>3 - Selective-focus evaluation resulting from:</div> <div>(a) Inspection findings</div> <div>(b) Analysis of State data and documents routinely supplied to the Field Office</div> <div>(c) Public concern</div> </div> <div> <div>(d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>4 - National priority review</div> </div>			

## **APPENDIX C**

### **State Comments on Report**



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor

Ted Stewart  
Executive Director

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December 23, 1993

Robert H. Hagen, Director  
Office of Surface Mining  
Reclamation and Enforcement  
505 Marquette, NW, Suite 1200  
Albuquerque, New Mexico 87102

Re: Draft Annual Evaluation Report, Utah, EY 1993

Dear Mr. Hagen:

I apologize for the length of time it has taken to provide a response to the draft Annual Evaluation Report. We have now had an opportunity to review the draft Annual Evaluation Report and request that you consider making the following changes to the report:

Page 5, Status of Issues from Previous Annual Evaluation Report

Second paragraph: "DOGM's record with respect to citation of violations worsened...." I encourage you to reconsider the statement that DOGM's record worsened. I also encourage you to recapitulate in the text the data contained in table 10 (p. A-12) of the report to broaden the reader's perspective. LSCI numbers are, at best, alleged violations until either OSM or a state RA issues a Notice of Violation, and the violation is upheld. Readers of the report should clearly understand that LSCI numbers are based entirely on assumptions made after the fact, and not on actual observations of the assumed violations at the time of the last complete state inspection.

OSM alleges 22 such violations occurred. Based on table 10, OSM believes that only five (23%) actually occurred, four more (an additional 18%) had a "none or unlikely" probability of occurrence of the event sought to be prevented, and the balance had a "likely" probability of occurrence. The reader might also like to know that OSM judged the degree of impact as "minor" for six (26%), "moderate" for eleven (48%), and "considerable" for the balance. I believe that, at a minimum,

Page 2  
Robert H. Hagen  
Utah, EY 1993  
December 23, 1993

the report should incorporate the above explanation to accurately inform the reader of the degree of attenuation between the LSCI statistics and demonstrable environmental degradation attendant to coal mining.

Third paragraph: The percentages for proposed civil penalties are incorrect. Forty percent were late in EY 93 as compared with 32 percent in EY 92. The following additional information is needed to allow the reader to draw an objective conclusion with regard to the timeliness of proposed civil penalties. The corrected paragraph should read as follows:

"During the evaluation year 1992, 32 percent of the proposed civil penalties were late averaging nine days. Sixty-one percent were early averaging nine days and seven percent were done at par (30 days). During the evaluation year 1993, 40 percent were late, averaging four days, 53 percent were early, averaging three days, and seven percent were done at par (30 days). This data accurately reflects the timeliness of proposed civil penalties with regard to Utah's Coal Program."

Page 8, Paragraph 1, Sentence 4

This sentence does not allow the reader to identify the information or the format within the AVS system with which OSM has a concern. This information needs to be identified so as to allow the reader to draw an objective conclusion as to the accuracy and correctness of the format with regard to the AVS system.

Page 12, Paragraph 1

The percentages for proposed civil penalties are incorrect. Forty percent were late in EY 93 as compared with 32 percent in EY 92. The following additional information is needed to allow the reader to draw an objective conclusion with regard to the timeliness of proposed civil penalties.

During the evaluation year 1992, 32 percent of the proposed civil penalties were late averaging nine days. Sixty-one percent were early averaging nine days and seven percent were done at par (30 days). During the evaluation year 1993, 40 percent were late, averaging four days, 53 percent were early, averaging three days, and seven percent were done at par (30 days). This data accurately reflects the timeliness of proposed civil penalties with regard to Utah's Coal Program.

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Page 12, Paragraph 2

During evaluation year 1993, 39 of 73 enforcement actions were the subject of a compliance conference. Please identify the three late assessment conferences. R645-401-721, sentence three, states that: "The assessment conference will be held within 60 days from the date of issuance of the proposed assessment or the end of the abatement period whichever is later." Since DOGM only schedules conferences after the violation abatement date, the assumption that the delay is precipitated by late assessment of enforcement actions is incorrect.

Page 12, Paragraph 3

During EY 1993, one hundred percent of the proposed assessments were accompanied by a worksheet showing the computation of the proposed assessment as required by R645-401-620. OSM's assertions of inadequate explanations and discrepancies in the assignment of points from one NOV to another, the appearance of inappropriate consideration of DOGM inspector's statements, the lack of full documentation and adherence to guidelines are based on standards which are not requirements of Utah's Coal Regulatory Program. This paragraph needs to be rewritten to reflect that DOGM met its programmatic requirements for proposed assessments. OSM's evaluation appears to be based on its own directives rather than the requirements of the Utah program.

Page 14, Administrative and Judicial Review

The last sentence, first paragraph reads: "The only programmatic concern at this time is that the current procedures for granting informal public hearing requests are not in accordance with the program." I recommend this sentence be dropped: The summary findings note that OSM is awaiting submission of a program amendment. Actually, DOGM is awaiting OSM's approval of statutory language approved by the Utah Legislature in February 1993 prior to proceeding to rulemaking. Utah's present procedure for informal public hearings affords a greater opportunity for such hearings than do the federal rules. Although we are proceeding to amend the program in accordance with your direction, I feel the sentence quoted above leaves the reader with the impression that public participation opportunities are being denied by the Utah program. Please consider deleting this sentence.

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The second paragraph, third sentence reads: "DOGM withdrew the Order to Show Cause after a potential pattern of violations had been determined by the Director on the grounds that DOGM 'would be found to be more stringent in the application of the parallel Federal statute and rules.'" This sentence should be corrected to read that the Board of Oil, Gas and Mining, not the Division, dismissed the Order to Show Cause upon stipulation by the Division and Co-Op. The balance of the second paragraph of this section is correct with respect to your staff's opinion on how patterns are to be conducted. However, I ask that you consider deletion of the entire sentence beginning "OSM subsequently informed DOGM..." The facts are that Division attorneys sought information from OSM concerning OSM or state precedents for patterns determinations, but never received feedback or support in their attempts to prosecute the Co-Op matter. Utah's own research efforts discovered what appears to be the only law on patterns of violations, based on USDI-ALJ decisions and internal OSM procedures. The Division acted on the advice of its legal advisors after balancing all the factors that a prudent prosecutor considers, and determined to agree to a stipulation of dismissal. While we may have come to differing conclusions as to whether the Division's case was winnable, I believe the Division acted prudently and well within the mandates of its approved program.

Page A-9, Table 8 OSM Random Sample Inspection Compliance Findings

I understand that this table is included by national mandate, but the title "Compliance Findings" leads the reader to believe that OSM has actually made a legal finding that a violation existed which was subsequently upheld. It is true that a disclaimer in the table footnote states "This table is intended to reflect only the extent of industry compliance at the time of the OSM random inspection..." I would like to voice my objection to using this table in federal oversight reports.

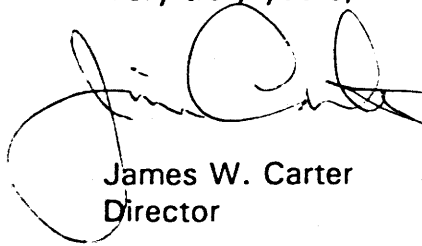
Page A-12, Table 10, Seriousness of Violations Present At Time of Last State Complete Inspection

The title of this table leaves the reader with the impression that a violation actually occurred that the state did not correctly identify. If the data in the table must be presented by national mandate, I encourage you to make the title more accurate by changing it to "Seriousness of Alleged Violations Present at the time of Last State Complete Inspection." I also encourage you to recap the seriousness and nature of these alleged violations in the following manner. The AFO noted 22

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alleged violations that were believed to have existed at the time of the last state complete inspection. Of these 22 alleged violations, one occurred outside the permit area, and four more "likely or unlikely" occurred outside the permit area. The balance of 17 alleged violations may have occurred within the permit area, with 12 of the 17 being ranked by OSM as having a potential for minor or moderate impact.

Very truly yours,

A handwritten signature in black ink, appearing to read "James W. Carter", is written over a circular stamp or seal.

James W. Carter  
Director

jbe  
cc: J. Helfrich  
I:OVST1193.L



# United States Department of the Interior

## OFFICE OF SURFACE MINING

Reclamation and Enforcement

Suite 1200

505 Marquette Avenue N.W.

Albuquerque, New Mexico 87102



FEB 04 1994

Mr. James W. Carter, Director  
Division of Oil, Gas and Mining  
3 Triad Center, Suite 350  
355 West North Temple  
Salt Lake City, Utah 84180-1203

Re: Comments to the EY 1993 Annual Evaluation Report

Dear Mr. Carter:

The Albuquerque Field Office (AFO) has completed its review of the Division of Oil, Gas and Mining's (DOGM) comments to the annual evaluation report (AER). The following is AFO's response to those comments.

### LSCI Violations (Page 5)

DOGM (Mr. Lowell Braxton) was contacted on January 14, 1994, for an explanation of the "alleged 5 violations" from Table 10 which had occurred. AFO actually listed 10 of 23 violations (in Table 10) which had occurred and which were not under appeal at the time the report was written. DOGM stated that it was not concerned with perusing Table 10 again but is concerned with the last state complete inspection (LSCI) violations.

DOGM restated that the AER should emphasize that LSCI numbers are based on assumptions made after the fact and not on actual observations of the assumed violations at the time of the LSCI. As stated in the past, an LSCI violation is a judgment made by the OSM inspector based on the evidence at the time of the oversight inspection and OSM oversight policy. AFO maintains that it is the nature of all violations, not only LSCI violations, that until they are upheld, they may be considered as alleged or assumed. No change to the AER will be made regarding this comment.

AFO believes that the number of LSCI violations needs to decrease so that DOGM's enforcement of the State program ceases to be an AER issue. AFO re-reviewed the overall record of LSCI violations found during the random sample inspections (RSI).

16 RSI inspections, 10 of 16 with no LSCI violations  
62.5% of RSIs with no LSCI violations

LSCI Violations and Subsequent Enforcement Actions

- 3 Horse Canyon Mine violations - 3 State NOVs issued and upheld
- 4 Knight Mine violations - 1 TDN issued (1 violation reversed and 3 affirmed); subsequently, one 3-part Federal NOV issued
- 1 Banning Siding Loadout violation - DOGM worked with operator to correct violation
- 4 JB King Mine violations - 1 State NOV issued and upheld; 2 TDNs issued, one with 2 parts; 1 TDN affirmed on appeal and 2 part TDN unappealed; subsequently State issued 2 NOVs and worked with operator to correct third violation
- 16 Sunnyside Mine violations - 2 TDNs issued on 8 violations; 3 State NOVs issued on 8 violations; 1 State CO issued on 1 violation; 2/8 violations in TDNs reversed; 6/8 violations in TDNs either judged appropriate responses or affirmed on appeal; 1/8 violations addressed by State NOVs vacated, others upheld or uncontested; 1 CO violation vacated.
- 1 Wellington Prep Plant violation - no walkover letter issued by OSM; practice allowed under permit; no State action taken

29 Violations alleged; 23 substantiated

Looking at the success of enforcement actions, the following summary is noted:

Federal Enforcement Actions (TDNs)

- 3 Knight violations affirmed.
- 1 Knight violation reversed.
- 3 JB King violations affirmed or unappealed.
- 6 Sunnyside violations appropriate or affirmed.
- 2 Sunnyside violations reversed.

15 Violations

- 3 (20%) reversed.
- 12 (80%) affirmed, uncontested, or appropriate DOGM response.

State Enforcement Action

- 3 Horse Canyon NOVs upheld
- 1 Banning Siding violation - working with operator
- 1 Wellington Prep Plant violation - no action.
- 3 J.B. King NOVs - upheld or uncontested.
- 1 J.B. King violation - working with operator.
- 7 Sunnyside violations upheld or uncontested.
- 2 Sunnyside NOV & CO vacated

15 Violations involving enforcement action:

- 2 (13%) vacated.
- 13 (87%) upheld or uncontested.

The conclusion is that both DOGM and OSM have successful inspection and enforcement programs. In those instances where DOGM took enforcement action, a successful resolution of the violation was usually achieved. As stated in the AER, DOGM has shown a greater willingness to cite mutually observed violations during the RSIs. DOGM has shown that it has the expertise to cite violations and should be able to reduce the number of LSCI violations.

OSM believes that DOGM should cite more violations of its own accord during LSCIs. The noted increase in the number of LSCI violations from EY 1992 and EY 1993 (16 to 26 violations; 62.5%) can be attributed to one mine which had 13/26 LSCI violations, or 50%. This mine has also statistically affected the evaluation of DOGM's program on civil penalty assessments, conferences and payments.

#### **AVS (Page 8)**

DOGM received the AVS element specific report in May 1993. This report detailed incorrect information in the system. It also contained, as findings, the narrative used in the AER. However, since the wording seems to be creating confusion, AFO will remove "in the proper format" from sentence 4, paragraph 1, page 8.

#### **Civil Penalties (Page 12)**

The timeliness of civil penalties calculations was based on the Utah program at R645-401-620. This rule requires that within 30 days of the issuance of the notice of violation or cessation order, the assessment officer will serve a copy of the proposed assessment to the permittee.

End of the year calculations show DOGM with 53% of the civil penalties untimely assessed and 47% timely assessed. The AER will be changed to reflect the updated information. In addition, the record will be changed to reflect the range of days which the assessments were timely and untimely. The database shows the range for timely assessments is 1 to 16 days before the 30th day, with 70% assessed on the 27th, 28th, 29th and 30th day. The database shows that the range for untimely assessments is 1 to 31 days, with 82% being late by 5 days or less.

#### **Late Assessment Conferences (Page 12)**

The three late assessment conferences are the Sunnyside Mine conferences on February 17, 1993, and March 16, 1993, and the Crandall Canyon Mine conference on April 17, 1993.

The AER stated that the reason for so many late proposed civil penalty assessments might be that DOGM was awaiting termination of the enforcement action (paragraph 1, page 12). The AER does not state that the delays in assessment conferences are due to late assessment conferences.

### **Review of DOGM Guidelines (Page 12)**

This issue was discussed in the OSM-DOGM quarterly meeting on September 28, 1993. OSM Directive REG-5 provides for the review of "a State's statutes, rules, policy statements and similar materials, collectively, with the Federal statute and rules, collectively, to ensure that the State's program, as a whole, meets all Federal requirements. State analogs to Federal statutory provisions need not be located only in State statutes, and State analogs to Federal regulatory provisions need not be located only in State rules."

OSM Directive REG-8 specifies that civil penalties be reviewed for assessment of penalties in accordance with program requirements. For review, it lists such items as the explanatory worksheets, assessment of mandatory penalties, adherence to program timeframes, and the documentation of the reasons and calculations for penalty assessments. OSM believes that it is within the oversight role responsibilities to review the penalty provisions of DOGM's program. DOGM's letter is correct in stating that OSM found inconsistencies in explanations of proposed or reduced assessments, the assignment of points from one like violation to another, the assignment of good faith points, and the consideration of DOGM's inspector's statements.

OSM requests a copy of DOGM's guidelines relating to a pattern of violations, when the guidelines are finalized.

### **Administrative and Judicial Review (Page 14)**

The Summary Findings discuss three program amendment issues which DOGM committed to resolving. Two have been initiated by DOGM (the joint appointment of the Informal Hearings Officer and the Informal Assessment Conference Officer, and the burden of proof requirements). The third issue, concerning the availability of informal hearings whenever requested, has not been addressed by DOGM. The EY 1992 AER correctly states that "DOGM provides informal hearings whenever requested by an operator rather than only when the enforcement action requires the cessation of mining as currently provided at Utah R645-400-351." The EY 1993 AER will be revised to state: "The only programmatic concern at this time is that the currently used procedures for granting informal public hearing requests, which allow greater flexibility than the approved State program, need to be incorporated into the State program."

**AER Tables 8 and 10**

Table 8, if properly interpreted, reflects the number of RSIs and the degree of associated violations. In DOGM's case, 59% of the inspections had no violations or only one violation. Also, Table 8 reflects that one mine had 20 or more violations.

Table 10 also appears to have been misread by DOGM. Fifteen violations were observed to have impacts outside of the permit area and 7 were observed to have impacts outside of the permit area. The rankings referred to in Table 10 have to do with the impact at the time of the LSCI. In other words, those with a "none or unlikely" impact would have been difficult for an inspector to have identified at the time of the LSCI. Those 10 listed as having "occurred" would have been noticeable at the time of the last LSCI.

Hopefully this explanation of the AER clarifies where the report has been misread and where AFO will make additional corrections. If you have any questions, please call me at (505) 766-1486.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Hagen', with a long horizontal line extending to the right.

Robert H. Hagen, Director  
Albuquerque Field Office



# United States Department of the Interior

## OFFICE OF SURFACE MINING

Reclamation and Enforcement

Suite 1200

505 Marquette Avenue N.W.

Albuquerque, New Mexico 87102



February 10, 1994

Mr. James W. Carter, Director  
Division of Oil, Gas and Mining  
3 Triad Center, Suite 350  
355 West North Temple  
Salt Lake City, Utah 84180-1203

Re: Additional Revisions to the EY 1993 Annual Evaluation Report Concerning  
LSCI Violations

Dear Mr. Carter:

The Albuquerque Field Office (AFO) has continued to review the LSCI violations occurring during EY 1993 due to your expressed concerns with the annual evaluation report (AER). The Office of Surface Mining Reclamation and Enforcement's (OSM) letter to you dated February 4, 1994, addressed end-of-the-year statistics on previously uncited LSCI violations. Following the completion of that letter, OSM decided to revise Tables 9 and 10 of the AER, and in so doing has made the enclosed revisions to the statistics concerning cited LSCI violations and other violations observed during the random sample inspection (RSI).

The AER was changed to reflect that the number of previously cited LSCI violations has been increased from 1 to 5, giving the Division of Oil, Gas and Mining (DOGM) a 16% prior (to the LSCI) citation rate during EY 1993. In addition, the number of other violations observed during the RSI, which were not LSCI violations and which were cited by DOGM, has been increased from 11 to 18. Tables 9 and 10 have been revised to reflect these statistics.

The result of these revisions to the AER is that the total number of LSCI violations has increased from 26 to 31. However, it is again noted in the report that 15 of the 31 violations belong to one mine. At a rate of 16 remaining violations for the 15 other RSIs, DOGM still has a respectable LSCI violation average of only one per mine inspection. The negative impact of the 15 LSCI violations from the one mine, is that the percent increase in LSCI violations from EY 1992 to EY 1993 is now 94% (from 16 to 31).

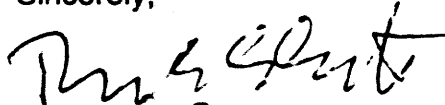
Mr. James W. Carter

2

The narrative on page 11 continues to note DOGM's cooperation in properly citing all other 18 violations observed during the RSI.

Please call Marcia Petta at (505) 766-1486 if you have any questions on these revisions.

Sincerely,

A handwritten signature in black ink, appearing to read "R. H. Hagen", written in a cursive style.

ACTING FOR  
Robert H. Hagen, Director  
Albuquerque Field Office